

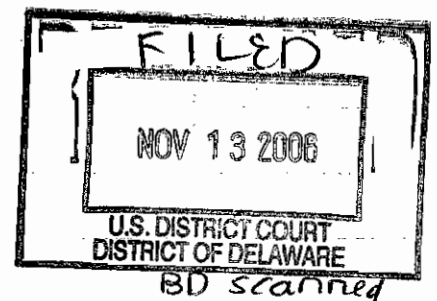
IN THE United States District Court
District of Delaware

Kevin C. Brathwaite
Plaintiff

V.

CA. # 04-1542-G.M.S.

Thomas Carroll, et al
Defendants



Plaintiff response to defendants
Motion to dismiss

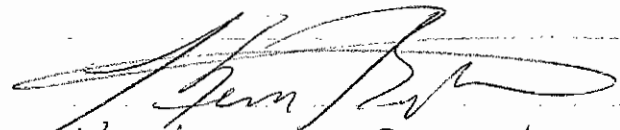
1. When this Plaintiff was sprayed with the mace while he was sleeping, some of the mace was clearly on the door frame which proves that this Plaintiff was assaulted. The first officers on the scene saw the door and examined it as stated in their reports the same. See LT. Wallachs report. Defendants exhibit - C-2 (Examination of cell showed pepper spray on inside door jam adjacent to the flat).

2. When this Plaintiff filed the initial grievance regarding this matter he clearly requested that this matter be investigated by an outside agency, because he knew from experience, that the internal affairs officer has a common practice of lying and covering up evidence. He also is known for attempting to get witnesses to change their original statements, like he clearly did with witness Geron Lindsey.

3. Another witness came forward that saw defendant Violet Dunn shaking up a can of mace prior to the assault. But the internal affairs officer did not want his statement. This witness is still available and needs to be deposed by an attorney or a representative of this plaintiff, not the defense, because they are prone to lie.

4. The only way that this matter
CAN be properly AND Fairly
resolved is by jury trial.

For the foregoing reasons, this
Plaintiff respectfully request that
he be Allowed to proceed
to trial.

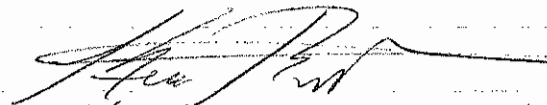

Kevin C. Brathwaite
1181 Paddock Rd.
Smyrna DE.
19977

DATED: NOV, 8th, 2006

Certificate of Service

I Kevin C. Brathwaite, states that I have caused a copy of the attached response to defendants motion to dismiss; to the following party by way of U.S. Postal Service.

Ophelia M. Waters
Atty Gen office
820 N. French St
Wilmington De.
19801


Kevin C. Brathwaite
1181 Paddock Rd.
Smyrna DE.
19977

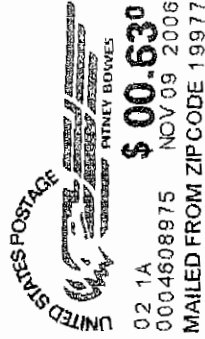
IM Kevin C. Brathwaite

SBI# 315294 UNIT _____

DELAWARE CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DELAWARE 19977



Peter DALLEO, clerk
Office of the clerk
U.S. District Court
844 N. King St.
Wilm, DE 19801



lockbox

1340143513-33 0012